

In The United States Patent and Trademark Office

In re application of: James P. Elia

Group No. 1646

Serial No.: 09/836,750

Examiner: Elizabeth C. Kemmerer, Ph.D.

Filed: 04/17/01

For: METHOD FOR GROWING MUSCLE IN A HUMAN HEART

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MAIL STOP NON-FEE AMENDMENTS

Commissioner for Patents

P.O. Box 1450

Arlington, VA 22313-1450

1. Transmitted herewith is a RESPONSE TO REQUIREMENT FOR RESTRICTION for this application.

2. Applicant is a small entity.

3. a) ☐ **Extension of Term**

<u>Extension (months)</u>	<u>Fee for other than small entity</u>
one month	\$ 110.00
two months	\$ 410.00
three months	\$ 930.00
four months	\$1,450.00
five months	\$1,970.00

An extension is hereby requested for \_\_\_\_ month(s) with a fee of \$\_\_\_\_\_.

An extension for \_\_\_\_ months has already been secured and the fee paid therefor of \$\_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$\_\_\_\_\_.

OR

b) ☒ Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

Reg. No.: 26,611

Signature of attorney

Gerald K. White

Type or print name of attorney

Tel. No.: (312) 920-0588

**CERTIFICATE OF MAILING**

I hereby certify that the attached RESPONSE TO REQUIREMENT FOR  
RESTRICTION was delivered to the Commissioner for Patents by the undersigned from Arrow  
Intellectual Property Services, 2001, Jefferson Davis Highway, Suite 602, Arlington, Virginia  
22202, by hand carrying said RESPONSE TO REQUIREMENT FOR RESTRICTION to Art  
Unit 1646, Crystal Plaza 1, Tenth Floor, Attention: Examiner Elizabeth C. Kemmerer this  
26<sup>th</sup> day of August, 2003.

Dated: 26 August 2003

Ann Rutledge  
Printed Name: Ann Rutledge

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growth factor specie claims which are directed to genes, gene products, and cells. It is pointed out that claims 204 and 236 are included in all three groups identified by the Examiner. Thus, Applicant respectfully believes that the instant fact situation should involve a genus/specie type of requirement for restriction. Accordingly, once claims 204 and 236 are determined to be allowable, the Examiner should act upon all of claims 204, 205, and 236-253.

The restriction requirement postulated that the Group I-III inventions are not capable of use together and have different modes of operation, different functions, or different effects. Applicant respectfully disagrees with the above statement because the inventions are clearly capable of being utilized together (as indicated in the literature) and the growth factors from all of the groups function in the same way to produce the same result.

Thus, the Examiner is respectfully requested to favorably reconsider the outstanding restriction requirement in view of the instant traverse and withdraw the restriction requirement.

Applicant notes that the Examiner was not able to locate in the file the two (2) declarations filed under 37 CFR 1.132 in the file. To expedite the prosecution of the instant application, Applicant encloses copies of such declarations.

It is believed that claims 204, 205, and 236-253 are in condition for examination in view of the above remarks, and an action on the merits of such claims is respectfully requested.

Should the Examiner have any questions or require additional information or discussion to place the application in condition for allowance, a phone call to the undersigned attorney would be appreciated.

Respectfully submitted,

Date: August 25, 2003



Gerald K. White  
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